

REMARKS

The office action mailed September 22, 2008 has been reviewed and carefully considered. By this amendment, claims 1-21 remain pending in this application. Claims 1, 2, 3, 12 and 21 have been amended. Support for the amendments may be found in the specification at least at paragraphs 0053, 0054 and Figure 4. No new matter has been added.

Claim Rejections 35 U.S.C. §101

Claims 1 and 3 stand rejected under 35 U.S.C. §101 because the Examiner asserts that absent recitation of an apparatus or device in the claims the limitations are simply mental steps. Claims 1 and 3 have been amended to clarify that the use of an authorized playback device as described in the specification at paragraph 0053. Thus, the Applicant believes that these claims are now in allowable form.

Claim Rejections 35 U.S.C. §112

Claims 2 and 21 stand rejected under 35 U.S.C. §112 as failing to particularly point out and distinctly claim the subject matter which the Applicant regards as his invention. Claims 2 and 21 have been amended to resolve antecedent basis issues, and accordingly Applicant believes that these claims are now in allowable form.

Claim Rejections 35 U.S.C. §102

Claims 1, 3-4, 10-13, and 19-20 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,632,992 to Hasegawa (hereinafter "Hasegawa").

Independent Claims 1, 3, and 12 recite, *inter alia*, (emphasis added) "playing back said digital media file including required advertising in accordance with said determined designated type of said digital media file on an authorized play back apparatus," "playing back said selected media type on an authorized play back apparatus," and "playback means for playing back said selected media type, and for invoking said associated advertising scheme, wherein said playback means are authorized for playback," respectively. In summary, the present invention provides content rights management even in post-retail transactions by associating users authorized to

access content with a particular replay apparatus which is registered or authorized (see, e.g., specification paragraphs 0053 and 0054). This is significant because it allows for content rights to be preserved at all stages of its lifecycle, not simply at the point of sale. Not only is Hasegawa silent on the use of authorized content play back devices, but Hasegawa strongly suggests that content, once downloaded, may be freely transferred and played as desired on any play back device, without requiring the play back device to be authorized by a content provider (see, e.g., Hasegawa col. 5, lines 48-52 describing transfer to and from external storage, col. 6, lines 15-20 describing that the data receiving apparatus is connected to a variety of music apparatus and computers, col. 16, lines 39-46 describes reading music from external storage device without any mention of encumbrance). Thus, Hasegawa does not remotely teach or suggest at least, “playing back said digital media file including required advertising in accordance with said determined designated type of said digital media file on an authorized play back apparatus,” “playing back said selected media type on an authorized play back apparatus,” and “playback means for playing back said selected media type, and for invoking said associated advertising scheme, wherein said playback means are authorized for playback.”

Accordingly, Claims 1, 3, and 12 are patentable and non-obvious over Hasegawa. Dependent Claims 4, 10, 11, 13, 19, and 20 include the above mentioned limitations and further distinctions over Hasegawa and are patentable at least due to their dependency from Claims 3 and 12, respectively. Early and favorable reconsideration of the rejection is respectfully requested.

Claim Rejections 35 U.S.C. §103

Claims 2, 5-9, 14-18, and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hasegawa.

Claim 2 depends from Claim 1, Claims 5-9 depend from Claim 3, and Claims 14-18 and 21 depend from Claim 12. As such, these claims are patentable for at least the reasons cited above with respect to the patent to Hasegawa.

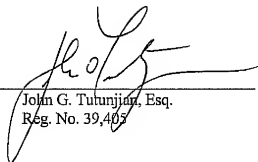
In view of the foregoing, Applicant respectfully requests that the rejections of the claims set forth in the Office Action of September 22, 2008 be withdrawn, that pending Claims 1-21 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 50-1433.

Respectfully submitted,

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Dated: 12/18/08

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